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ACT/015/032 #2

TO: Daron Haddock FAX #: _____

FROM: Dale Harber

SUBJECT: Genwal IBC/ROW

TOTAL PAGES INCLUDING COVER PAGE: 7

COMMENTS:



United States
Department of
Agriculture

Forest
Service

Manti-La Sal
National Forest

Supervisor's Office
599 West Price River Drive
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File Code: 2820-4

Date: September 8, 1999

Utah Division of Oil, Gas and Mining
ATTN: Daron Haddock
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84114-5801

Re: Fifty Acre Incidental Boundary Change (Joes Valley Fault), Genwal Resources, Inc.,
Crandall Canyon Mine, ACT/015/032-IBC99-1, Folder #2, Emery County, Utah

Dear Daron:

My staff has completed analysis of the application from Genwal Resources, Inc., for a 50-acre Incidental Boundary Change (IBC) and an underground right-of-way (ROW). A copy of the Decision Memo documenting my decision to consent to the issuance of the IBC by the Utah Division of Oil, Gas and Mining and the issuance of the ROW by the Bureau of Land Management is enclosed.

Please contact Dale Harber at (435) 636-3548 if you have any questions.

Sincerely,

JANETTE S. KAISER
Forest Supervisor

Enclosure

cc:

Doug Koza, Utah State Office, BLM



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Decision Memo

Consent to an Incidental Boundary Change/Underground Right-of-Way
for Genwal Resources, Inc., Crandall Canyon Mine, Emery County, Utah

USDA-Forest Service, Intermountain Region
Manti-La Sal National Forest
Ferron-Price Ranger District

I. Introduction

Genwal Resources, Inc., has submitted an application for a right-of-way (ROW) to the Bureau of Land Management (BLM) and a 50-acre Incidental Boundary Change (IBC) (Sections 3 and 10, Township 16 South, Range 6 East) to the Utah Division of Oil, Gas and Mining (UDOGM) to prevent by-pass of mineable coal reserves in their State Lease ML-21568. This would require the Forest Service (FS) to consent to issuance of an Underground Right-of-Way by the BLM and issuance of an IBC by UDOGM, and issuance of a Special Use Permit for subsidence of National Forest System lands by the FS. The Office of Surface Mining Reclamation and Enforcement (OSM) is a cooperating agency in this action. The purpose is to maximize coal production in the State lease, which would increase by an estimated 260,000 tons.

Mining within the ROW/IBC area would be limited to full-support development mining and would consist primarily of longwall gateroads, setup rooms, and barrier pillars, allowing full-extraction mining to the western edge of the State Lease. There would be no longwall mining within the ROW area. All mining within the ROW would be done with a continuous miner. There would be no subsidence from the full-support mining, however, subsidence from full-extraction mining on the State Lease could extend westward onto the adjacent National Forest System lands (0 to 480 feet over a north-south distance of approximately 1 mile).

The BLM is authorized to issue an underground right-of-way and conduct a negotiated sale for an underground right-of-way under the terms of the Mineral Leasing Act of 1920, Title V of the Federal Land Policy and Management Act (FLPMA) of 1976, and 43 CFR 3431, with the consent of the surface management agency.

UDOGM is authorized to issue an IBC under the terms of SMCRA, FLPMA, and the Utah Coal Rules, with the consent of the surface management agency.

As the surface management agency, the FS must consent to the issuance of the underground right-of-way and the Incidental Boundary Change before they may be issued by the BLM and UDOGM, respectively. The FS must also issue a Special Use Permit before National Forest System lands may be subsided.

II. Decision

I have decided to consent to the issuance of an underground right-of-way by the BLM.

I also consent to the issuance of the Incidental Boundary Change by UDOGM, subject to the following provisions:

1. Full-extraction mining which may subside National Forest System lands may not be conducted until Genwal has applied for and received a Special Use Permit from the FS. The following stipulations must be listed in the permit:

a. Existing Forest Service owned or permitted surface improvements will be protected, restored, or replaced to provide for the continuance of current land uses.

b. Genwal Resources, Inc., at their expense, will be responsible to replace any surface water identified for protection that may be lost or adversely affected by mining operations, with water from an alternate source in sufficient quantity and quality to maintain existing riparian habitat, fishery habitat, livestock and wildlife use, or other land uses.

2. Genwal must notify the FS immediately if they encounter water associated with the Joes Valley Fault.

Some surface subsidence within the Incidental Boundary Change area due to full extraction of the coal on the State lease will occur. The subsidence is not expected to adversely impact surface resources. Any other ground-disturbing activities will require additional environmental analysis and authorization.

My decision will be implemented through issuance of a Special Use Permit with Terms and Conditions which meet Forest Service regulations and Forest Plan requirements, and through issuance of an underground right-of-way by the BLM and an Incidental Boundary Change by UDOGM. This decision is in conformance with FLPMA and 36 CFR 251.50. Forest Service regulations also require the applicant to secure any other necessary State or Federal permits or authorizations required by law. The applicant will be required to secure such authorizations.

It is also my decision that a Special Use Fee will be charged for this Special Use Permit. A fee will be charged because Genwal Resources does not qualify for a fee waiver under the conditions described in 36 CFR 251.57(b).

I have determined that this decision may be categorically excluded from preparation of an Environmental Assessment or Environmental Impact Statement under Forest Service Handbook 1909.15, Chapter 30, Section 31.1b(7): "Sale or exchange of land or interest in land and resources where resulting land uses remain essentially the same."

III. Decision Rationale

This decision was made after careful consideration of the proposal, public involvement, and the entirety of the supporting record. No one fact or single piece of information led to this decision. Rather, a combination of factors contributed to it. Some of the key factors used in reaching my decision are summarized below:

Existing User Need:

There is a demonstrated demand for Wasatch Plateau coal. If this coal is not mined now, approximately 260,000 tons would be permanently bypassed. It would not be economically feasible to return and mine this coal at a future date, and currently it is also technologically impossible. My decision contributes to supplying coal necessary for human use, and allows maximum use of the resource.

Conformance with the Forest Plan:

The area on the Forest to be subsided is within a Range management unit, where the emphasis is on forage production for domestic livestock and wildlife. Minerals activities are allowed as long as there are mitigation measures to assure continued livestock access and use, and that any water lost would be replaced. Both these criteria are met by standard Forest Service lease stipulations which will be incorporated into the Special Use Permit. My decision is consistent with the Forest Plan.

This decision is not in conflict with the Agency's Final Interim Rule of March 1, 1999, which temporarily suspends decisionmaking on road construction and reconstruction in many unroaded areas within the National Forest System until a revised policy is issued or 18 months from the effective rule date. This project is within an Inventoried Roadless Area (RARE II), but no road construction or reconstruction is proposed (or authorized). Mining-induced subsidence will not affect the roadless character of the area.

Existing Effects:

My decision is not unique. The Forest Service has issued other Special Use Permits for subsidence in the past. Surface subsidence is an effect of mining over the 11 coal mines currently permitted on the Forest. No surface disturbance other than subsidence is authorized by this action. Subsidence over the Genwal Mine area has averaged approximately 1 foot, with a maximum of 3 feet. Subsidence is expected to be minimal within the area, due to its location outside the margins of the longwall panels. Impacts of my decision will be similar to that of past mining operations in the area. There may be localized surface subsidence, but impacts to resources should be minimal. There will be a benefit in the production of an additional 260,000 tons of coal. The effects on public land use and users would remain consistent with that which is currently occurring. Special Use Permit Terms and Conditions will ensure Forest Service regulations and Forest Plan requirements are met and environmental resources are protected.

Extraordinary Circumstances:

Existing resource conditions and potential extraordinary circumstances have been considered in making my decision. I have determined that there are no extraordinary circumstances adversely affected by the project.

Steep slopes or highly erosive slopes. There are steep slopes and erosive soils across the Forest. Slopes within the subsidence area are approximately 60 to 70 percent. The soils are from units 561 (fine loamy, mixed argic pachic cryoborolls) and 711 (loamy-skeletal, mixed pachic cryoborolls). Soil Unit 561 is typically on slopes less than approximately 40%, is deep and well-drained with rooting depth of up to 60 inches. It has a low to moderate erosion hazard, is manageable for many uses, and is typically an important unit for aspen. Soil Unit 711 is typically

located on slopes of 40-60% with a moderate erosion hazard. They are well-drained, with a potential rooting depth of 40-60 inches, and also typically support aspen. These slopes and soils will not be adversely affected by the project.

Threatened and endangered species or their critical habitat. A Biological Evaluation and Biological Assessment have been prepared for this project. The Biological Evaluation concludes there will be "No Impact" on sensitive species. The Biological Assessment concludes there will be "No Effect" on listed species or their critical habitat.

Floodplains, wetlands, or municipal watersheds. There are no floodplains, wetlands, or municipal watersheds within the project area.

Congressionally designated areas, such as wilderness, wilderness study areas, or National Recreation Areas. There are no wilderness, wilderness study areas, or National Recreation Areas in or near the project area. The nearest wilderness areas are the Nebo Wilderness approximately 40 miles to the northwest and the Dark Canyon Wilderness approximately 120 miles to the southeast. Impacts will be limited to the area of subsidence, and will not affect wilderness. There are no wilderness study areas or National Recreation Areas on the Forest.

Inventoried roadless areas. The subsidence area is located within an inventoried roadless area. Project impacts will be limited to minor surface subsidence and will not affect the character of the inventoried roadless area.

Research Natural Areas. The subsidence area is not located within any Research Natural Area, but is 3 miles south of the Mont Lewis Botanical Area. Subsidence impacts will be localized and will not affect the Mont Lewis Botanical Area or any other Research Natural Area.

Native American religious or cultural sites, archaeological sites, or historic properties or areas. A previous cultural resource survey over portions of the subsidence area showed no cultural resources. Due to the minimal amount of predicted subsidence, there will be no impact on cultural resources.

Relationship to Public Involvement:

Public comments were sought for this project. No new information, points of controversy, or objections were identified for this project (see Section IV).

IV. Public Involvement

Comments were sought by publishing a Request for Comments in the *Sun Advocate* and the *Emery County Progress* newspapers on June 1, 1999. No comments were received from the public involvement effort.

V. Findings Required by other Laws and Regulations

To the best of my knowledge, my decision would comply with all applicable laws and regulations. The association of my decision to pertinent legal requirements are summarized in this section.

National Forest Management Act of 1976: The Forest Plan (1986) was developed as required by this Act. This long-range land and resource management plan provides guidance for all resource management activities on the Forest. The National Forest Management Act requires all projects and activities to be consistent with the Forest Plan. The Forest Plan has been reviewed in consideration of this project. My decision is consistent with the Forest Plan and this Act.

National Historic Preservation Act: My decision complies with this Act. The project will not impact cultural or historic resources.

Endangered Species Act: My decision complies with this Act. The project will result in minimal impacts to surface resources. A Biological Evaluation and Biological Assessment have been prepared for this project. The Biological Evaluation concludes there will be "No Impact" on sensitive species. The Biological Assessment concludes there will be "No Effect" on listed species or their critical habitat.

National Environmental Policy Act: The entirety of documentation for this project supports that the analysis and decision comply with this Act.

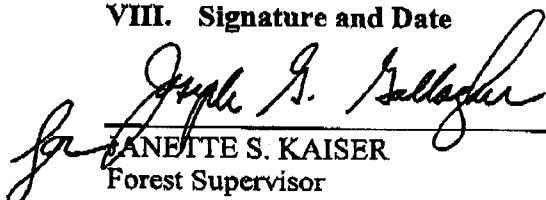
VI. Implementation Date and Appeal Opportunity

Implementation of this decision may occur immediately upon publication of this notice as provided in 36 CFR 215.9. This decision is not subject to appeal by the public in accordance with the Code of Federal Regulations, Title 36, part 215, section 8(a)(4), (Decisions for actions that have been categorically excluded from documentation in an environmental assessment or environmental impact statement in FSH 1909.15, Sections 31.3 and 31.2, except as noted in 36 CFR 2115.7(b)). This decision is subject to appeal by the applicant under 36 CFR 251.86 (Denial of an unsolicited or voluntary special use application is not appealable).

VII. Contact Person

For additional information concerning this decision, please contact Dale Harber at the Forest Supervisor's Office, 599 West Price River Drive, Price, Utah 84501 (telephone 435-636-3548).

VIII. Signature and Date


JANETTE S. KAISER
Forest Supervisor

8 September 1999
Date